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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,944	12/10/2003	Toshihiko Kaku	Q78811	6284

23373   7590   10/15/2008
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EXAMINER
RUSH, ERIC

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
10/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/730,944	KAKU, TOSHIHIKO
	Examiner	Art Unit	
	ERIC RUSH	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>24 July 2008</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-24</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-24</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>10 December 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

        1.☒ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

9/30/2008 has been entered.

Response to Amendment

2.   This action is responsive to the amendments and remarks received on 24 July

2008. Claims 1 – 24 are currently pending.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of
> making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the
> art to which it pertains, or with which it is most nearly connected, to make and use the same and shall
> set forth the best mode contemplated by the inventor of carrying out his invention.

4.   Claims 1 and 3 – 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the written description requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention. In the amendments entered 24 July 2008 the

claims have been amended to further define the identification step to identify an

individual person being photographed based on *a face in* the face portions recognized

in the image. The Examiner cannot find support for the newly amended claim limitation

in the original disclosure, the original disclosure solely defines the step of identification

being based on face portions, the eyes and positions, and not on a face as now

claimed, and as such the claims are rejected under 112 first paragraph as new matter.

5.   Claims 2 and 7 - 24 are also rejected under 35 U.S.C. 112, first paragraph, as

being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 103

6.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

7.   Claims 1 - 2, 8 - 9, and 20 - 24 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Fuersich et al. U.S. Publication No. 2003/00440070 A1 and further in

view of Okano et al. U.S. Patent No. 6,404,903.

-       With regards to claim 1, Fuersich et al. teach a face recognition method

for recognizing face portions in an image based on image data of the

image, comprising: a detection step of detecting, in the image, eye

portions which have undergone a predetermined color change, based on

the image data; (Fuersich et al., Page 5 Paragraph 0047 and Paragraph

0050) and a recognition step of recognizing face portions in the image

based on the eye portions detected in the detection step. (Fuersich et al.,

Figs. 1A, 1B, & 1C, Page 6 Paragraph 0054) Fuerisch et al. fail to teach

an identification step of identifying an individual person being

photographed based on a face in the face portions recognized in the

image. Okano et al. teach an identification step of identifying an individual

person being photographed based on a face in the face portions

recognized in the image. (Okano et al., Abstract, Fig. 1, Fig. 2, Column 9

Lines 30-44, Okano et al. teach identifying individuals based on a face in

the recognized face portions, eyes, as disclosed by Applicant's disclosure

with the claim read in light of the specification) It would have been obvious

to one of ordinary skill in the art at the time of the invention to modify the

teachings of Fuersich et al. to include the teachings of Okano et al. This

modification would have been prompted because the use of face portions,

particularly eye portions or a face, for individual recognition is notoriously

well known. Some advantages of individual recognition/identification may

be automatic annotation images and/or security based applications.

-       With regards to claim 2, Fuerisch et al. in view of Okano et al. teach the

        face recognition method according to claim 1. Fuerisch et al. teach

        wherein the detection step detects red-eye portions in the image.

        (Fuersich et al., Page 5 Paragraph 0047 and 0050, Page 6 Paragraph

        0052)

-       With regards to claim 8, Fuerisch et al. in view of Okano et al. teach the

        face recognition method according to claim 1. Fuerisch et al. teach

        wherein the detection step of detecting eye portions which have under

        gone a predetermined color change includes comparing a pixel value of

        the image data with a reference pixel value which corresponds to the

        predetermined color change. (Fuersich et al., Page 5 Paragraphs 0047

        and 0050, Page 6 Paragraph 0052)

-       With regards to claim 9, Fuerisch et al. in view of Okano et al. teach the

        face recognition method according to claim 8. Fuerisch et al. teach

        wherein the reference pixel value is a red reference value or a gold

        reference value. (Fuersich et al., Page 5 Paragraphs 0047 and 0050,

        Page 6 Paragraph 0052)

- With regards to claim 20, Fuerisch et al. in view of Okano et al. teach the face recognition method according to claim 1. Fuerisch et al. fail to teach wherein the identification step is performed only if the eye portions which have undergone the predetermined color change are detected. Okano et al. implicitly teach wherein the identification step is performed only if the eye portions which have undergone the predetermined color change are detected. (Okano et al., Column 11 Lines 18 – 25, if there are no eye portions in the input image then comparison cannot take place)

- With regards to claim 21, Fuerisch et al. in view of Okano et al. teach the face recognition method according to claim 20. Fuerisch et al. fail to teach wherein the identification step includes: searching for face images stored in a storage section that match the recognized face portions; and acquiring identification information stored in the storage section which is associated with a matched face image. Okano et al. teach wherein the identification step includes: searching for face images stored in a storage section that match the recognized face portions; (Okano et al., Column 11 Lines 1 - 61) and acquiring identification information stored in the storage section which is associated with a matched face image. (Okano et al., Column 11 Lines 1 - 61)

-    With regards to claim 22, Fuerisch et al. in view of Okano et al. teach the face recognition method according to claim 1. Fuerisch et al. fail to teach wherein the identification step is performed based on a result of the detection step, in which the eye portions which have undergone the predetermined color change are detected. Okano et al. implicitly teach wherein the identification step is performed based on a result of the detection step, (Okano et al., Column 11 Lines 18 – 25, if there are no eye portions in the input image then comparison cannot take place) in which the eye portions which have undergone the predetermined color change are detected. (Okano et al., Column 11 Lines 18 – 25, if there are no eye portions detected in the input image using the method of Fuerisch et al. then comparison cannot take place)

-    With regards to claim 23, Fuerisch et al. in view of Okano et al. teach the face recognition method according to claim 22. Fuerisch et al. fail to teach wherein the identification step is performed only if the predetermined color change is detected. Okano et al. implicitly teach wherein the identification step is performed only if the predetermined color change is detected. (Okano et al., Column 11 Lines 18 – 25, if there are no eye portions detected in the input image using the method of Fuerisch et al. then comparison cannot take place)

-       With regards to claim 24, Fuerisch et al. in view of Okano et al. teach the

        face recognition method according to claim 1. Fuerisch et al. fail to teach

        wherein the individual person is identified according to unique

        identification information which corresponds to the individual person.

        Okano et al. teach wherein the individual person is identified according to

        unique identification information which corresponds to the individual

        person. (Okano et al., Column 9 Line 66 – Column 10 Line 26)

8.   Claims 3-7, 11-12, 14-15, and 17-18 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Fuersich et al. U.S. Publication No. 2003/0044070 A1 in view

of Chen et al. U.S. Publication No. 2002/0081032 A1.

-      With regards to claim 3, Fuersich et al. teach a method that recognizes face portions in an image based on image data of the image, comprising: a detection section which detects, in the image, eyes which have undergone a predetermined color change, based on the image data; (Fuersich et al., Page 5 Paragraph 0047 and Paragraph 0050) and a recognition section which recognizes face portions in the image based on the eyes detected by the detection section. (Fuersich et al., Figs. 1A, 1B, & 1C, Page 6 Paragraph 0054) Fuerisch et al. fail to teach a face recognition apparatus, which recognizes face portions in an image and an individual recognition section which identifies an individual person being photographed based on a face in the face portions recognized in the image. Chen et al. teach a face recognition apparatus, which recognizes face portions in an image. (Chen et al. Fig. 1, Page 3 Paragraph 0091) Chen et al. fail to teach an individual recognition section which identifies an individual person being photographed based on a face in the face portions recognized in the image. Okano et al. teach an individual recognition section which identifies an individual person being photographed based on a face in the face portions recognized in the image. (Okano et al., Abstract, Fig. 1, Fig. 2, Column 9 Lines 30-44, Okano et al. teach identifying individuals based on recognized face portions, eyes, as disclosed by Applicant's disclosure with the claim read in light of the specification) It would have been obvious to one of ordinary

skill in the art at the time of the invention to modify the teachings of

Fuersich et al. with the teachings of Chen et al. This modification would

have been prompted in order to employ the method as disclosed by

Fuersich et al. in to real world practice effectively and efficiently. It would

have been obvious to modify the combined teachings of Fuersich et al. in

view of Chen et al. with the teachings of Okano et al. This modification

would have been prompted because the use of face portions, particularly

eye portions or a face, for individual recognition is notoriously well known.

Some advantages of individual recognition/identification may be automatic

annotation images and/or security based applications.

-       With regards to claims 4 and 5, Fuerisch et al. teach a face extraction
        method for extracting face portions from an image and generating facial
        images based on image data of the image, comprising: a detection step of
        detecting, in the image, eye portions which have undergone a
        predetermined color change, based on the image data; (Fuersich et al.,
        Page 5 Paragraph 0047 and Paragraph 0050) a recognition step of
        recognizing face portions in the photographic image based on the eye
        portions detected in the detection step; (Fuersich et al., Figs. 1A, 1B, &
        1C, Page 6 Paragraph 0054) a correction step of correcting the color
        change in the eye portions detected in the detection step. (Fuersich et al.,
        Figs. 1A, 1B, & 1C, Page 6 Paragraph 0054) Fuerisch et al. fail to teach a
        face image generating step of generating facial images by extracting, from
        the image, the face portions which have been recognized in the
        recognition step and whose color change has been corrected in the
        correction step; and an identification step of identifying an individual
        person being photographed based a face in on the generated facial
        images. Chen et al. teach a face image generating step of generating
        facial images by extracting, from the image, the face portions which have
        been recognized in the recognition step and whose color change has been
        corrected in the correction step. (Chen et al. Page 4 Paragraph 0099
        Lines 5 – 10) Chen et al. fail to teach an identification step of identifying an
        individual person being photographed based on a face in the generated

facial images. Okano et al. teach an identification step of identifying an individual person being photographed based on a face in the generated facial images. (Okano et al., Abstract, Fig. 1, Fig. 2, Column 9 Lines 30-44, Okano et al. teach identifying individuals based on recognized face portions, eyes, as disclosed by Applicant's disclosure with the claim read in light of the specification) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Fuesich et al. with the teachings of Chen et al. This modification would have been prompted in order to create mugshot type images which may be used in a variety of applications from biometric identification to saving storage space in memory. It would have been obvious to modify the combined teachings of Fuersich et al. in view of Chen et al. with the teachings of Okano et al. This modification would have been prompted because the use of face portions, particularly eye portions or a face, for individual recognition is notoriously well known. Some advantages of individual recognition/identification may be automatic annotation images and/or security based applications.

-       With regards to claim 6, Fuersich et al. teach an image pickup apparatus
        which photographs a subject and generates photographic image data of a
        photographic image, comprising: a detection section that detects, in the
        photographic image, eye portions which have undergone a predetermined
        color change, based on the image data; (Fuersich et al., Page 5
        Paragraph 0047 and Paragraph 0050) a recognition section that
        recognizes face portions in the photographic image based on the eye
        portions detected by the detection section; (Fuersich et al., Figs. 1A, 1B, &
        1C, Page 6 Paragraph 0054) a correction section that corrects the color
        change in the eye portions detected by the detection section; (Fuersich et
        al., Figs. 1A, 1B, & 1C, Page 6 Paragraph 0054) Fuersich et al. fail to
        teach an image pickup apparatus and a face image generating section
        that generates facial images by extracting, from the photographic image,
        the face portions which have been recognized by the recognition section
        and whose color change has been corrected by the correction section; an
        individual recognition section which identifies an individual person being
        photographed based on a face in the generated facial images. Chen et al.
        teach an image pickup apparatus (Chen et al., Column 3 Lines 54 – 67)
        and a face image generating step of generating facial images by
        extracting, from the image, the face portions which have been recognized
        in the recognition step and whose color change has been corrected in the
        correction step. (Chen et al. Page 4 Paragraph 0099 Lines 5 – 10) Chen

et al. fail to teach an individual recognition section which identifies an
individual person being photographed based on a face in the generated
facial images. Okano et al. teach an individual recognition section which
identifies an individual person being photographed based on a face in the
generated facial images. (Okano et al, Abstract, Fig. 1, Fig. 2, Column 9
Lines 30-44, Okano et al. teach identifying individuals based on
recognized face portions, eyes, as disclosed by Applicant's disclosure with
the claim read in light of the specification) It would have been obvious to
one of ordinary skill in the art at the time of the invention to modify the
teachings of Fuesich et al. with the teachings of Chen et al. This
modification would have been prompted in order to create mugshot type
images, which may be used in a variety of applications from biometric
identification to saving storage space in memory. Also, Chen et al.
disclose the image pickup apparatus, which is suggested by Fuersich et
al. (Page 4 Paragraph 0040) that would have made it obvious to one of
ordinary skill in the art at the time of the invention to include in their
method in order to add functionality to the method effectively and
efficiently in real world practice. It would have been obvious to modify the
combined teachings of Fuersich et al. in view of Chen et al. with the
teachings of Okano et al. This modification would have been prompted
because the use of face portions, particularly eye portions or a face, for
individual recognition is notoriously well known. Some advantages of

individual recognition/identification may be automatic annotation images and/or security based applications.

-       With regards to claim 7, Fuersich et al. in view of Chen et al. teach the image pickup apparatus according to claim 6. Fuersich et al. teach wherein the detection section detects red-eye portions in the image and the correction section corrects the red-eye portions detected by the detection section. (Fuersich et al., Page 5 Paragraph 0047 and Paragraph 0050) and the correction section corrects the red-eye portions detected by the detection section. (Fuersich et al., Figs. 1A, 1B, & 1C, Page 6 Paragraph 0054)

-       With regards to claim 11, Fuersich et al. in view of Chen et al. teach the face recognition apparatus according to claim 3. Fuersich et al. teach wherein the detection section which detects eyes which have undergone a predetermined color change, compares a pixel value of the image data with a reference pixel value which corresponds to the predetermined color change. (Fuersich et al., Page 5 Paragraph 0047 and Paragraph 0050)

-     With regards to claim 12, Fuersich et al. in view of Chen et al. teach the face recognition apparatus according to claim 11. Fuersich et al. teach wherein the reference pixel value is a red reference value or a gold reference value. (Fuersich et al., Page 5 Paragraph 0047 and Paragraph 0050)

-     With regards to claim 14, Fuersich et al. in view of Chen et al. teach the face extraction method according to claim 4. Fuersich et al. teach wherein the detection step of detecting eye portions which have undergone a predetermined color change includes comparing a pixel value of the image data with a reference pixel value which corresponds to the predetermined color change. (Fuersich et al., Page 5 Paragraph 0047 and Paragraph 0050)

-     With regards to claim 15, Fuersich et al. in view of Chen et al. teach the face extraction method according to claim 14. Fuersich et al. teach wherein the reference pixel value is a red reference value or a gold reference value. (Fuersich et al., Page 5 Paragraph 0047 and Paragraph 0050)

- With regards to claim 17, Fuersich et al. in view of Chen et al. teach the face recognition apparatus according to claim 6. Fuersich et al. teach wherein the detection section that detects eyes which have undergone a predetermined color change, compares a pixel value of the image data with a reference pixel value which corresponds to the predetermined color change. (Fuersich et al., Page 5 Paragraph 0047 and Paragraph 0050)

- With regards to claim 18, Fuersich et al. in view of Chen et al. teach the face recognition apparatus according to claim 17. Fuersich et al. teach wherein the reference pixel value is a red reference value or a gold reference value. (Fuersich et al., Page 5 Paragraph 0047 and Paragraph 0050)

9.   Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuersich et al. U.S. Publication No. 2003/0044070 in view of Okano et al. U.S. Patent No. 6,404,903 as applied to claim 1 above, and further in view of Nesterov et al. U.S. Patent No. 6,980,691.

- With regards to claim 10, Fuersich et al. teach in view of Okano et al. the face recognition method according to claim 1. Fuersich et al. fail to teach wherein the predetermined color change is a gold-eye occurrence. Nesterov et al. teach wherein the predetermined color change is a gold-

eye occurrence. (Nesterov et al., Column 1 Lines 15 – 28) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combined teachings of Fuersich et al. in view of Okano et al. to include the teachings of Nesetrov et al. This modification would have been prompted because Nesterov et al. state that gold-eye occurrences can occur and create un-welcomed image qualities similar to red-eye. Therefore modifying Fuersich et al. to not only detect and correct for red-eye but gold-eye along with any other color that may be harmful to the quality of picture would have been obvious to increase the capabilities and range of photograph enhancement that Fuersich et al. could obtain.

10.   Claims 13, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fuersich et al. U.S. Publication No. 2003/0044070 A1 in view of Chen et al. U.S. Publication No. 2002/0081032 A1 further in view of Okano et al. U.S. Patent No. 6,404,903 as applied to claims 3, 4, and 6 above, and further in view of Nesterov et al. U.S. Patent No. 6,980,691.

-       With regards to claim 13, Fuerisch et al. in view of Chen et al. further in

        view of Okano et al. teach the face recognition apparatus according to

        claim 3. Fuersich et al. fail to teach wherein the predetermined color

        change is a gold-eye occurrence. Nesterov et al. teach wherein the

        predetermined color change is a gold-eye occurrence. (Nesterov et al.,

        Column 1 Lines 15 – 28) It would have been obvious to one of ordinary

        skill in the art at the time of the invention to modify the combined

        teachings of Fuerisch et al. in view of Chen et al. further in view of Okano

        et al. to include the teachings of Nesetrov et al. This modification would

        have been prompted because Nesterov et al. state that gold-eye

        occurrences can occur and create un-welcomed image qualities similar to

        red-eye. Therefore modifying Fuersich et al. to not only detect and correct

        for red-eye but gold-eye along with any other color that may be harmful to

        the quality of picture would have been obvious to increase the capabilities

        and range of photograph enhancement that Fuersich et al. could obtain.

-       With regards to claim 16, Fuerisch et al. in view of Chen et al. further in

        view of Okano et al. teach the face extraction method according to claim

        4. Fuersich et al. fail to teach wherein the predetermined color change is a

        gold-eye occurrence. Nesterov et al. teach wherein the predetermined

        color change is a gold-eye occurrence. (Nesterov et al., Column 1 Lines

        15 – 28) It would have been obvious to one of ordinary skill in the art at

        the time of the invention to modify the combined teachings of Fuerisch et

        al. in view of Chen et al. further in view of Okano et al. to include the

        teachings of Nesetrov et al. This modification would have been prompted

        because Nesterov et al. state that gold-eye occurrences can occur and

        create un-welcomed image qualities similar to red-eye. Therefore

        modifying Fuersich et al. to not only detect and correct for red-eye but

        gold-eye along with any other color that may be harmful to the quality of

        picture would have been obvious to increase the capabilities and range of

        photograph enhancement that Fuersich et al. could obtain.

-        With regards to claim 19, Fuersich et al. in view of Chen et al. further in view of Okano et al. teach the face recognition apparatus according to claim 6. Fuersich et al. fail to teach wherein the predetermined color change is a gold-eye occurrence. Nesterov et al. teach wherein the predetermined color change is a gold-eye occurrence. (Nesterov et al., Column 1 Lines 15 – 28) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combined teachings of Fuersich et al. in view of Chen et al. further in view of Okano et al. to include the teachings of Nesetrov et al. This modification would have been prompted because Nesterov et al. state that gold-eye occurrences can occur and create un-welcomed image qualities similar to red-eye. Therefore modifying Fuersich et al. to not only detect and correct for red-eye but gold-eye along with any other color that may be harmful to the quality of picture would have been obvious to increase the capabilities and range of photograph enhancement that Fuersich et al. could obtain.

Response to Arguments

11.   Applicant's arguments filed 7/24/2008 have been fully considered but they are not persuasive. On page 10 of the remarks submitted 7/24/2008 the Applicant's Representative argues that Okano et al. do not identify individuals based on <u>recognized face portions</u>, as required by claim 1. The Examiner respectfully disagrees and asserts that the eyes of an individual which Okano et al. use for identification are the <u>recognized</u>

face portions. On page 10 of the remarks submitted 7/24/2008 the Applicant's

Representative argues that the teachings of Okano et al. is not equivalent to identifying

an individual person being photographed based on a face in the face portions

recognized in the image. The Examiner Respectfully disagrees and asserts that Okano

et al. teach the step of identifying individuals based on a face in recognized face

portions, eyes, as disclosed by Applicant's disclosure with the claim read in light of the

specification. On pages 10 - 11 of the remarks submitted 7/24/2008 the Applicant's

Representative argues that Okano et al. does not implicitly teach "the identification step

is performed only if the eye portions which have undergone the predetermined color

change are detected". The Applicant's Representative incorrectly argues that inherency

was used by the Examiner to support such a feature when implicitness was used. The

Applicant's Representative is further reminded that the claim is being rejected under 35

U.S.C. 103 under the combined teachings of Fuersich et al. in view of Okano et al.

Okano et al. teach identifying individuals based upon their eyes, so, implicitly, if eyes

are not detected by Fuersich et al. the step of identifying an individual as disclosed by

Okano et al. would not be possible and therefor would not take place. On page 12 of the

remarks submitted 7/24/2008 the Applicant's Representative argues that Okano et al.

"merely teaches searching *through* a recognition dictionary 2, which holds iris codes as

data on features and user information. However, iris codes are not the equivalent to

face images or face portions..." The Examiner respectfully disagrees and asserts that

Okano et al. does in fact store face images or face portions, see Okano et al. Fig. 3, Fig.

6, Column 11 Lines 10 – 17 and Line 34 - 37 which all show support that not just iris

codes are stored in the dictionary as claimed by the Applicant's Representative.

Conclusion

12.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

-        Benati et al. U.S. Patent No. 5,432,863; which is directed towards

         automated detection and correction of eye color defects due to flash

         illumination.

-        Kinjo U.S. Publication No. 2002/0015514 A1; which is directed to an

         image processing method.

         Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ERIC RUSH whose telephone number is (571)270-

3017. The examiner can normally be reached on 7:30AM - 5:00PM (EST).

         If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Samir Ahmed can be reached on (571) 272-7413. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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